

Where one of two executors disputes a claim which has been passed by orphans' court, it becomes incumbent upon claimant to institute suit thereon at law or in equity so as to establish it by judgment or decree. *Strasbaugh v. Dallam*, 93 Md. 716.

This section has no application to possible or contingent claims. *Orendorff v. Utz*, 48 Md. 304.

See notes to sec. 108.

1920, ch. 674.

**110.** If a claim shall be asserted against or exhibited to an administrator or executor in any form, whether sworn to or passed by the Orphans' Court or not, and he shall refuse payment thereof in writing, such claim shall be forever barred unless the creditor shall bring suit upon the same within nine months after such rejection.

An. Code, sec. 108. 1904, sec. 107. 1888, sec. 108. 1798, ch. 101, sub-ch. 8, sec. 15.  
1823, ch. 131, sec. 2.

**111.** In case all the assets have been paid away, delivered or distributed as herein directed, and a claim shall afterwards be exhibited of which the administrator hath not notice by the exhibition of the claim legally authenticated as herein required, he shall not be answerable for the same; and if he be sued for any claim, and shall make it appear to the court in which suit is brought that he hath so paid away, delivered or distributed, and the plaintiff cannot prove that the defendant had notice as aforesaid before such payment, delivery or distribution, the court shall not proceed to give judgment (although the amount of the claim against the deceased may be ascertained), until the plaintiff shall be able to show further assets coming into the defendant's hands; but if the plaintiff shall prove notice as aforesaid of the said claim against the defendant, judgment may immediately be given for such sum as the plaintiff ought to have received at the dividend, and *feri facias* may issue and have effect, and further judgment may be given on coming in of further assets.

An administrator who fails to give notice required by sec. 113 is not entitled to protection of this section; nor will this section protect administrator if he has notice of the claim. What amounts to notice? (But see sec. 121.) *Steuart v. Carr*, 6 Gill, 410.

An administrator who proceeds as law directs is protected from claims of judgment creditors, and of all others of which he had no notice. *Cape Sable Co.'s Case*, 3 Bl. 670.

Although executor is relieved from liability under this section, creditor may still pursue his remedy against property or legatee or devisee. This section distinguished from sec. 109. *Zollickoffer v. Seth*, 44 Md. 370; *Coburn v. Harris*, 53 Md. 371.

This section has no application to taxes; executors must take notice of, and pay them. *Bonaparte v. State*, 63 Md. 469.

This section will be applied by analogy in a creditors' suit. *Welch v. Stewart*, 2 Bl. 39.

Cited but not construed in *Coward v. State*, 7 G. & J. 479.

An. Code, sec. 108A. 1916, ch. 14.

**112.** In no case shall the mere failure of administrators or executors to plead plene administravit or insufficiency of assets of their decedents render any judgments against them in their representative capacity per-